

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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LARRY BALOWSKI,

Plaintiff,

v.

Case No. 11-15119

CITY OF PONTIAC and PONTIAC GENERAL  
EMPLOYEES RETIREMENT SYSTEM,

Defendants.

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**ORDER REQUIRING EXPEDITED RESPONSE TO DEFENDANT'S  
"MOTION FOR SUMMARY JUDGMENT"**

Plaintiff filed the instant action against Defendants on November 18, 2011, alleging federal question subject matter jurisdiction pursuant to the Employee Retirement Income Security Act ("ERISA") under 29 U.S.C. § 1001. See 28 U.S.C. § 1331. On January 19, 2012, Defendant Pontiac General Employees Retirement System filed a "Motion for Summary Judgment," challenging the court's subject matter jurisdiction. On initial review of the motion, it appears to have merit, and thus the court will order Plaintiff to file an expedited response.<sup>1</sup> Accordingly,

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<sup>1</sup>Defendant's motion does not contain a statement of concurrence, as is required under the local rules. E.D. Mich. LR 7.1(a). It is possible that, had Defendant sought concurrence, Plaintiff may have consented to the motion. It seems to the court quite possible that, upon appropriate consideration, the parties may opt to file a stipulated order of dismissal. Alternatively, in lieu of a response in opposition or a formal stipulation, Plaintiff may choose to simply file a statement of concurrence in the motion.

IT IS ORDERED that Plaintiff is DIRECTED to file an expedited response to Defendant's "Motion for Summary Judgment" [Dkt. # 5] by **January 27, 2012**. If the motion is granted, the court will dismiss the entire action for lack of subject matter jurisdiction.

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: January 20, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 20, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522